

Office of the
CLARK COUNTY LAND USE HEARING EXAMINER

1300 Franklin Street
P.O. Box 9810
Vancouver WA 98668-9810
Phone (360) 397-2375

NOTICE TO PARTIES OF RECORD

Project Name: FISHWOOD SUBDIVISION

Case Number: PLD2009-00032; SEP2009-00056; WET2009-00046;
EVR2009-00026; FOR2009-00014; GEO2009-00013;
HAB2009-00046

The attached decision of the Land Use Hearing Examiner will become final and conclusive unless a written appeal is filed with the Board of Clark County Commissioners, 6th floor, Public Service Center, 1300 Franklin Street, Vancouver, Washington, no later than 5:00 p.m. on, **November 9, 2009** (14 calendar days after written notice of the decision is mailed).

The Hearing Examiner's procedural SEPA decision is final and not appealable to the Board of County Commissioners.

All other appeals must be written and contain the information required under CCC 40.510.030(H), and placed in the following preferred format:

1. Project Name
2. Case Number
3. Name and signature of each petitioner: The name and signature of each petitioner and a statement showing that each petitioner is entitled to file the appeal under Section 40.510.030(H)(1). If multiple parties file a single petition for review, the petition shall designate one (1) party as the contact representative for all contact with the responsible official.
4. Introduction:
Provide a brief history of the case. This should include a chronology of dates of related applications, cases numbers, and a description of the proposal as it relates to the decision being appealed
5. Standard of Review:
Describe what standard of review (i.e., board's discretion to reverse the examiner's decision) you believe applies to board's review of the alleged errors (e.g., substantial evidence for challenges to findings of fact; de novo review for code interpretation; or, clearly erroneous for issues involving application of code requirements to particular facts).
6. Alleged Errors/Response to Alleged Errors:
Identify the specific aspect(s) of the decision being appealed, the reasons why each aspect is in error as a matter of fact or law, and the evidence relied on to prove the error (i.e., reference the relevant exhibits and passages, court cases, etc.).

The appeal fee is **\$716**

The Board of Commissioners shall hear appeals of decisions based upon the written record before the examiners, the examiner's decision, and any written comments received in the office of the Board within the following submittal deadlines measured from the date of the filing of the appeal:

- Fourteen (14) calendar days for the appellant's initial comments;
- Twenty-eight (28) calendar days for all responding comments; and,
- Thirty-five (35) calendar days for appellant reply comments, which are limited to the issues raised in the respondent's comments.

Written comments shall be limited to arguments asserting error in or support of the examiner decision based upon the evidence presented to the examiner.

Unless otherwise determined by the Board for a specific appeal, the Board shall consider appeals once a month, on a reoccurring day of each month. The day of the month on which appeals are considered shall be consistent from month to month as determined by Board.

The Board may either decide the appeal at the designated meeting or continue the matter to a limited hearing for receipt of oral argument. If continued, the Board of Commissioners shall designate the parties or their representatives to present argument, and permissible length thereof, in a manner calculated to afford a fair hearing of the issues specified by the Board of Commissioners. At the conclusion of its public meeting or limited hearing for receipt of oral legal argument, the Board of Commissioners may affirm, reverse, modify or remand an appealed decision.

Mailed on: **October 26, 2009**

PROJECT NAME: Fishwood Subdivision
PROJECT NUMBER: PLD2009-00032
HEARING DATE: 10/8/09

LOUISE RICHARDS(Original copy)
B O C C
** INTEROFFICE MAIL **

MR. J. RICHARD FORESTER
728 NW SKYLINE BLVD.
PORTLAND OR 97229-6815
(Email)

MR JOE TURNER
30439 SE JACKSON RD, SUITE 200
GRESHAM, OR 97080
(Email)

MR. DANIEL KEARNS
Reeve Kearns PC
621 SW Morrison Street, Ste 1225
Portland, OR 97205
(Email)

VANCOUVER SCHOOL DIST
ATTN: HEIDI ROSENBERG
PO BOX 8937
VANCOUVER WA 98668-8937

VANCOUVER/CLARK PARKS
INTEROFFICE MAIL

THE COLUMBIAN
MICHAEL ANDERSEN
P.O. BOX 180
VANCOUVER WA 98666
(Email)

WA DEPT. OF TRANSPORTATION
ATTN: JEFF BARSNESS
P.O. BOX 1709
VANCOUVER WA 98668-1709
(Email)

CARLA SOWDER
HEALTH DEPARTMENT
INTEROFFICE MAIL
(Email)

FT VANCOUVER REGIONAL LIBRARY
1007 EAST MILL PLAIN BLVD.
VANCOUVER WA 98663

STEVE SCHULTE
PUBLIC WORKS

PLANNER:
(Email)

ROSIE HSIAO
(Email)

JANET
ASSESSOR'S OFFICE
(Email)

CENTRAL FILES
(Email)

LINDA MOORHEAD
CODE ENFORCEMENT
(Email)

SUSAN RICE
(Email)

DEVELOPMENT ENG
(Email)

DESIREE DE MONYE
(Email)

FISHWOOD SUBDIVISION
PLD2009-00032
HEARING DATE: 10/8/09

PLANNER: VICKI KIRSHER

STAFF COMMENTING:
DAVID BATTAMINI

Fishwood Trust
mabrathovde@msn.com

Scott Taylor
Eric Golemo
staylor@sgaengineering.com
egolemo@sgaengineering.com

Sherwood Hills NA
Dick Durland, President
dickdurland@hotmail.com

Kelly S. Keeney
4911 NE 109th Street
Vancouver, WA 98686

MARY ANN SHEEHAN
LUCAS SHEEHAN
4700 NE 109TH ST
VANCOUVER WA 98686

DAN DEBURD
4903 NE 109TH ST
VANCOUVER WA 98686

**BEFORE THE LAND USE HEARINGS EXAMINER
OF CLARK COUNTY, WASHINGTON**

Regarding an application by Fishwood Trust for)	<u>FINAL ORDER</u>
approval of a preliminary plat to divide 10-acres)	
into 35 lots in the R1-6 zone at 4800 NE 109th)	PLD2009-00032¹
Street in unincorporated Clark County, Washington)	(Fishwood Subdivision)

A. SUMMARY

1. The applicant, Fishwood Trust, requests approval to divide the roughly 10-acre site into 35 lots and a 3.41-acre open space tract containing regulated stream, wetlands and wildlife habitat areas. The site is located at 4800 NE 109th Street; also known as known as tax lot 20 (189764-000), Section 36, Township 3 North, Range 1 East, of the Willamette Meridian (the "site"). The site and surrounding properties are zoned R1-6 (Rural, 5-acre minimum lot size). The site is currently developed with an existing residence, a detached garage, and several sheds. The applicant proposed to remove all of the existing structures prior to construction of the phase upon which they are situated. The applicant will construct a new single-family detached dwelling on each of the proposed lots. All proposed lots will comply with the minimum dimensional standards for the R1-6 zone, as modified by the density transfer ordinance. Clark Public Utilities and Clark Regional Wastewater will supply domestic water and sanitary sewer service respectively to the site. The applicant will extend a new public street, proposed NE 49th Avenue, into the site from 109th Street, terminating in a "T" intersection with a proposed new east-west street, NE 110th Circle, within the site. NE 110th Circle will terminate in a cul-de-sac to the east and a temporary turnaround at the west end of the site. The street will be further extended in the future when the abutting property redevelops. The applicant will also dedicate right-of-way and construct frontage improvements on the site's NE 109th Street and NE 50th Avenue frontages. The applicant will collect stormwater runoff from the impervious areas of the site and convey it to stormwater facilities within the site for treatment and discharge via on-site infiltration.

2. The County issued a Determination of Nonsignificance ("DNS") for the subdivision pursuant to the State Environmental Policy Act ("SEPA"). Hearings Examiner Joe Turner (the "examiner") conducted a public hearing about the application. County staff recommended that the examiner approve the application subject to conditions. See the Development and Environmental Review Staff Report and Recommendation to the Hearings Examiner dated September 23, 2009 (the "Staff Report"). The applicant accepted the findings and conditions in the Staff Report without exceptions. No one else testified orally or in writing, other than public agency staff. The only disputed issue is whether additional archaeological review is required for land disturbing activities within the proposed lots.

¹ This decision also addresses SEP2009-00056, WET2009-00046, EVR2009-00026, FOR2009-00014, GEO2009-00013 and HAB2009-00046.

3. Based on the findings provided or incorporated herein, the examiner approves the preliminary plat subject to the conditions at the end of this final order.

B. HEARING AND RECORD HIGHLIGHTS

1. The examiner received testimony at a public hearing about this application on October 8, 2009. That testimony and evidence, including a videotape of the public hearing and the casefile maintained by the Department of Community Development (“DCD”), are included herein as exhibits, and they are filed at DCD. The following is a summary by the examiner of selected testimony and evidence offered at the hearing.

2. County planner Vicki Kirsher summarized the Staff Report and showed photographs of the site. She testified that condition of approval D-16.d, which limits ground disturbing activities outside of the proposed building envelopes, is intended to protect potential archaeological artifacts on the site. It is not intended to preclude normal landscaping activities on the proposed lots. She requested the examiner modify Archaeology Finding 1 and condition D-16.d to that effect.

3. County engineer David Bottamini initially testified that compliance with condition of approval A-6.a will require an addendum to the applicant’s geotechnical report. However he revised his opinion based on Mr. Golemo’s testimony. He concluded that no changes are warranted to condition A-6.a. He noted that the County will not allow stormwater infiltration within the NE 50th Avenue right of way. It is feasible to infiltrate runoff on the site from all of the new impervious surface areas created by the proposed development.

4. Engineer Eric Golemo testified on behalf of the applicant and accepted the findings and conditions in the Staff Report.

a. He noted that the applicant reduced the building envelopes on proposed Lots 22 and 23 in order to preserve the existing trees on the site. The reduced building envelopes are not necessary to protect the archaeological area on the site, which is located within the open space tract, north of proposed Lots 24 and 25.

b. He argued that an addendum to the geotechnical report is not necessary to comply with condition of approval A-6.a. The applicant will infiltrate runoff from roof downspouts in the front yards of the lots abutting the steep slopes on the site. The applicant can address the impact of stormwater infiltration on the stability of the slopes in its final geotechnical analysis. No changes to condition of approval A-6.a are necessary.

c. He testified that the infiltration facilities will be designed to accommodate runoff from the 100-year storm event. Runoff in excess of the 100-year event will overflow into the wetlands within the open space on the north end of the site. The applicant’s final stormwater report will provide an engineered overflow route.

5. County team leader Travis Goddard suggested the examiner consider the language in CCC 40.570.080 when revising condition A-6.d.

6. The examiner closed the record at the end of the hearing and announced his intention to approve the proposed development subject to the conditions of approval in the Staff Report, as amended at the hearing.

C. FINDINGS:

Only issues and approval criteria raised in the course of the application, during the hearing or before the close of the record are discussed in this section. All approval criteria not raised by staff, the applicant or a party to the proceeding have been waived as contested issues, and no argument with regard to these issues can be raised in any subsequent appeal. The Examiner finds those criteria to be met, even though they are not specifically addressed in these findings. The following issues relate to the mandatory applicable approval criteria for this proposal and were addressed by County staff in their reports, by agency comments, by the applicant and others. The Examiner adopts the following findings with regard to each:

LAND USE:

Finding 1 – Density Transfer

The proposed subdivision is situated within an R1-6 zoning district. For those properties containing certain specific sensitive areas, the zone has provisions to transfer the allowable density for said sensitive areas to the remaining unencumbered land areas on the same development site. The applicant's proposal qualifies for this density transfer option because the northerly 3.41 acres of the site is encumbered with steep slopes, habitat, and wetlands.

CCC 40.220.010(C)(5)(b)(2) specifies that "the maximum number of units that can be achieved on the site is based on the density in Table 40.220.010-4, multiplied by the gross acreage of the entire site, both encumbered and unencumbered, without deducting for road easements or right-of-way." The actual number of lots that can be achieved is determined by site characteristics and the prescribed minimum lot standards.

Based on the above formula, the maximum number of parcels allowed on this site is 58. The applicant is proposing to divide the property into 35 lots, which is well within the number allowed by the ordinance. In accordance with CCC 40.220.010(C)(5)(b)(7), however, a recorded covenant shall be placed on those areas from which density is transferred prohibiting any development of the parcel inconsistent with its intended use. Said covenant shall be recorded in conjunction with Phase 1 (*See Condition D-1*).

Finding 2 – Phasing Requirements

The applicant is proposing to develop the subdivision in three (3) phases. In accordance with CCC 40.540.050(D)(4), the applicant shall show:

- a. The phasing plan includes all land within the preliminary plat;*

- b. *Each phase is an independent planning unit with safe and convenient circulation and with facilities and utilities coordinated with requirements established for the entire subdivision; and*
- c. *All road improvement requirements are assured.*

Finding 3 – Lot Standards

Per 40.220.010(C)(5)(b)(3), the minimum lot depth of any lot abutting environmentally sensitive lands shall be 55 feet. For parent parcels larger than two and one-half (2.5) acres, resulting lots abutting adjacent R1-6 zoned properties shall also comply with requirements set forth in CCC 40.220.010(C)(5)(b)(4)(a). This code provision specifies the newly created parcels must contain at least 5,400 square feet. In addition, these parcels shall have a minimum lot depth of 72 feet and a minimum lot width of 40 feet.

In accordance with CCC 40.220.010(C)(5)(b)(4)(b), those interior resulting lots shall contain a minimum 2,500 square feet of usable lot area and an average width of 40 feet and an average depth of 50 feet.

The preliminary plan [*Exhibit 5*] shows a 20-foot access and utility easement running along the southern boundary of Lots 33, 34, and 35. The plan, however, does not show this easement included as part of these three parcels. This same situation exists regarding the access and utility easement across Lots 10, 11, and 12. In a telephone conversation, the applicant indicated that the easement serving Lots 14 through 16 is meant to be included as part of Lot 16 even though it is not included in the square footage of that parcel. These oversights shall be corrected and the square footage of these lots adjusted on the final plat (*See Condition D-2*). In addition, each of the joint driveway easements shall specifically identify which lots will derive access from said easement (*See Condition D-3*).

With those minor revisions noted above, the proposed subdivision in its entirety meets lot standard requirements, as does each individual phase provided Phase I is completed prior to either of the remaining phases (*See Conditions A-1 and D-4*).

Finding 4 – Setbacks/Lot Coverage

The applicable setbacks for each resulting lot, in accordance with Table 40.220.020-3, are as follows:

- Front – 20 feet
- Street Side – 10 feet
- Side – 5 feet
- Rear – 5 feet

NE 110th Circle is proposed to end as a temporary turnaround at the western boundary of the site. Per 40.200.070(B)(3), in residential zoning districts, where a temporary turnaround easement constitutes all or part of the front lot line, front setbacks shall be a minimum of ten (10) feet from the temporary easement for the dwelling and fifteen (15) feet for the associated garage.

The applicant has shown setback envelopes on each of the proposed parcels. In some instances, rear yard setbacks exceed the identified standard so as to protect the driplines of trees being retained. Also, the building envelope on Lot 17 reflects the fact that there is a 10-foot utility easement adjacent to and south of a dripline for a tree located in the habitat tract. The easement, however, is not labeled on the preliminary plan [*Exhibit 5*]. Similarly, a 500 square foot stormwater tract at the southwest corner of Lot 21 is not identified. These deficiencies shall be corrected on the final plat (*See Condition D-5*).

Due to intersection angles, it should be noted that building envelopes shown for corner lots do not correctly reflect how the County measures setbacks at intersections. This shall be corrected on the final plat (*See Condition D-6*). In order to avoid any confusion at time of building permit issuance, distance of building envelopes to all property lines shall be clearly identified on the final plat (*See Condition D-7*).

The maximum lot coverage in the R1-6 zoning district is 50%. The preliminary plan [*Exhibit 5*] identifies building envelopes that, if fully encumbered with structures, will exceed this standard. To ensure compliance with this code provision, a plat note to this effect will be required (*See Condition D-16-a*).

Finding 5 – Existing Structures

The written narrative *Exhibit 6, Tab D*] indicates that “the existing home will remain on site until the beginning of Phase II.” It does not specify when the remaining structures will be removed from the premises.

With the proposed layout of the subdivision, it is not crucial that the existing residence be removed with development of Phase II. The dwelling, however, straddles the property line between Lots 30 and 31 in Phase III. It is, therefore, imperative the residence be removed before recordation of the final plat for this phase (*See Condition D-8*). In addition, a condition will be imposed to ensure that all structures are removed with the necessary permits (*See Condition B-4*).

Finding 6 – Mobile/Manufactured Homes

The applicant has not specifically indicated that manufactured homes may be placed on individual lots resulting from this proposed subdivision. As a result, pursuant to CCC 40.260.130(A)(2), manufactured homes are prohibited on any lot within this subdivision (*See Condition D-16-b*).

Finding 7 – Landscaping in Right-of-Way

NE 50th Avenue is classified as an ‘urban arterial’ on the Clark County Road Atlas. As a result, street trees and landscaping are required in the right-of-way. The preliminary landscape plan [*Exhibit 5, Sheet 4*] shows trees and shrubbery planted in the landscape strip. It is appropriate, however, for Public Works staff to review the proposed plan to ensure it is consistent with that agency’s requirements for the type of planting materials allowed in a right-of-way. The applicant shall contact Karyn Morrison at (360) 397-2446, ext. 1658 in the Clark County Public Works for this review (*See Condition A-3-a*).

Finding 8 – State Platting Standards (RCW 58.17)

With conditions of approval, the examiner finds the proposed short plat will make appropriate provisions for the public health, safety, and general welfare of the community. Extension and connection of proposed residence to public sewer and water, as well as treatment of any future increase of stormwater runoff will be provided to protect groundwater supply and integrity. Impact fees will also be required to contribute a proportionate share toward the costs of school, park and transportation provisions, maintenance and services.

Conclusion (Land Use): The examiner finds that the revised preliminary plan [*Exhibit 12*], subject to conditions identified above, meets land use requirements of the Clark County Code.

ARCHAEOLOGY:

Finding 1 – Historic and Cultural Preservation

A portion of the 10 acre parcel is located within a Low-Moderate (20 - 40 percent) probability area for discovery of archaeological resources, as designated on the Archaeological Predictive Model Map of Clark County. This project is considered a high impact development. Therefore, an archaeological predetermination was required.

Archaeological Services of Clark County (ASCC) performed a survey of the property and recommended no further archaeological work. The report was reviewed by the Department of Archaeology and Historic Preservation (DAHP). The agency concurs with this recommendation [*Exhibit 10*]; especially since any archaeological site is located “entirely within the Habitat Conservation Tract...of the project area and the site will not be disturbed.” However, a condition will be imposed that in the event any cultural resources are discovered in the course of undertaking development activity for this project, DAHP shall be notified (*See Conditions A-2-a and D-16-c*).

Staff recommended an additional condition requiring additional study should any development activity or ground disturbance occur outside of building envelopes shown on the final plat. The examiner finds that this condition is unnecessary. The developable portion of the site has been surveyed and no archaeological items were discovered. Therefore development is allowed within the proposed building envelopes. The examiner finds that land disturbing activities within the proposed lots, but outside the building envelopes is any more likely to disturb archaeological items than land disturbing activities within the building envelopes. Conditions A-2-a and D-16-c provide adequate protection for any artifacts that may be discovered. Additional archaeological study should be required for any ground disturbing activities outside the boundaries of the lots. (*See Condition D-16-d*).

Conclusion (Archaeology): The examiner finds that the proposed preliminary plan, subject to conditions identified above, meets the archaeology requirements of the Clark

HABITAT:

Finding 1 – Applicability

A tributary to LaLonde Creek flows through the northern portion of the property. In this location, this creek is identified as a Department of Natural Resources (DNR) type F (fish-bearing) stream. A type F watercourse requires a 200-foot riparian Habitat Conservation Zone (HCZ). The riparian HCZ extends 200 feet horizontally outward from the ordinary high water mark.

Finding 2 – Riparian Zone Averaging

The applicant is utilizing riparian zone averaging provisions of the Habitat Ordinance in order to accommodate portions of the proposed subdivision. The applicant proposes to remove several trees from the riparian zone. As compensation for this impact, the applicant proposes to protect a functionally equivalent area slightly larger in size [See Exhibit 6, Tab V]. The examiner finds the proposal complies with averaging criteria in CCC 40.440.020(C)(3), subject to the conditions of approval in A-4, D-9, and D-16-e. It should be noted that the applicant is proposing additional tree protection on the property, beyond what is required by County Code.

Finding 3 – Road Modification

The applicant proposes a road modification to avoid building road frontage improvements within the inner zone of the riparian HCZ. The examiner concurs with the applicant that building this section of frontage would significantly impair the habitat functionality of the riparian HCZ and would be difficult to permit.

Conclusion (Habitat): The examiner finds that the proposed preliminary plan, subject to conditions identified in A-4, D-9, and D-16-e, can meet habitat requirements of the Clark County Code set forth in CCC 40.440.

SEPA – PLANTS:

Finding 1 – Threatened Plant Species

Western wahoo (*Euonymus occidentalis*), a state threatened plant species, is present on the northern portion of the site. Western wahoo is adapted to low-light interior forest conditions found in moist draws in westside forests. The applicant has submitted information into the record identifying exact plant locations and analyzing existing and proposed future growing conditions [See Exhibit 6, Tab V]. The applicant has also submitted information regarding effective transplanting/planting techniques for mitigation of plant impacts. After review of the applicant's wahoo mitigation plan [See Exhibit 6, Tab V], staff concurs with the applicant's determination that the existing forested buffers in concert with transplanting will be adequate to protect the threatened plant species on the site, subject to SEPA conditions of approval set forth in D-9-a, D-9-d and D-16-e.

WETLAND:

Finding 1 – Applicant's Proposal

The applicant proposes to reduce wetland buffers for street improvements required on NE 50th Avenue for a residential subdivision. The applicant has proposed buffer replacement on the subdivision site.

Finding 2 – Wetland Determination

The wetland boundaries and buffers were established under a previously issued wetland determination [Exhibit 19]. Wetlands on the site are rated as Category II with a habitat function score of 21 points. Therefore, a 120-foot buffer is required for the proposed High Intensity Uses. The engineering construction plans and final plat must clearly show the correct wetland buffer (See Conditions A-5-a and D-10-a).

Finding 3 – Buffer

Required street improvements on NE 50th Avenue will reduce the wetland buffers. The applicant proposes to replace buffer area in accordance with CCC 40.450.040(C)(5). There is more than sufficient wetland buffer area within the Habitat Conservation Tract proposed on the preliminary plat [Exhibit 5]. If the wetland buffer reduction and replacement areas are shown on the final engineering construction plans, a Final Wetland Permit is not required (See Condition A-5-b).

Conclusion (Wetlands): Based upon the development site characteristics and the proposed development plan, the examiner concludes that the proposed preliminary plat and preliminary wetland permit comply with the requirements of the Wetland Protection Ordinance PROVIDED that certain conditions set forth in A-5, C-2, D-10 and D-16-f are met. Therefore, the requirements of the preliminary plan review criteria are satisfied.

GEO-HAZARD:

Finding 1 – Applicability

All development activities in or adjacent (within 100 feet) to geologic hazard areas shall comply with provisions of CCC 40.430. The proposed development may be within 100 feet of slope instability and adjacent to a severe erosion hazard area. The provisions of CCC 40.430, therefore, may apply to this development.

Finding 2 – Geologic Hazard Issues

The applicant submitted a preliminary geotechnical report, dated May 1, 2009 [Exhibit 1, Tab H]. The recommendations identified in this report shall be implemented unless further studies present new or different facts. Geotechnical engineering analysis shall include an analysis of the infiltration of roof runoff from the proposed lots adjacent to the steep slopes and provide associated recommendations (See Condition A-6-a).

A building permit is required for retaining walls greater than 4 feet tall or when groundwater is surcharged adjacent to the wall. All retaining walls shall be shown in sufficient detail on the engineering plans for staff to assess their impact on adjacent roads, structures, and public and private utilities (See Condition A-6-b).

During construction, the geotechnical engineer shall certify that work performed is consistent with his recommendations and certify that there are no safety concerns (See Condition C-3).

Conclusion (Geo-Hazard): Based upon the development site characteristics, the proposed geotechnical plan, requirements of the County's geologic hazard area ordinance, and findings discussed above, the examiner concludes that the proposed preliminary geotechnical engineering plan, subject to conditions identified, is feasible. Therefore, the requirements of the preliminary plan review criteria are satisfied.

FORESTRY:

Finding 1 – Forest Practices

The applicant has applied for a Class IVG Forest Practice Permit. This permit can be issued following the end of the appeal period which follows the Hearing Examiner Decision. No timber harvesting shall occur until a Class IVG Forest Practice Permit is issued (*See Condition G-1*)

DEPARTMENT OF ECOLOGY:

Finding 1 – Waste Resources

The Washington Department of Ecology (DOE) submitted a letter, dated September 1, 2009 [*Exhibit 11*]. This correspondence indicates that “in addition to any required asbestos procedures, the applicant should ensure that any other potentially dangerous or hazardous materials present, such as PCB-containing lamp ballasts, fluorescent lamps, and wall thermostats containing mercury, are removed prior to demolition. It is important that these materials and wastes are removed and appropriately managed prior to demolition. It is equally important that demolition debris is also safely managed, especially if it contains painted wood or concrete, treated wood, or other possibly dangerous materials.” The developer is encouraged to recycle all possible leftover construction, demolition, and land clearing (CDL) materials and reduce waste generated.

The letter also encourages the developer to “consider the principles of smart growth, urbanism and green building in order to reduce the impacts from the development”; most specifically those techniques referenced in the LEED (Leadership in Energy and Environmental Design) for Neighborhood Development rating system.

The applicant has been provided with a copy of the DOE letter and is encouraged to incorporate the Departments recommendations.

Finding 2 – Toxic Clean-up

The DOE letter also indicates there are no known contaminated sites within a half-mile radius of the proposed development site, and advises that “if environmental contamination is discovered on the site it must be reported to Ecology’s Southwest Regional Office.”

The applicant has been provided with a copy of the DOE letter, and is separately responsible for compliance with all state and federal regulations. An advisory condition will be imposed requiring the developers to be alert for contamination during construction, and to notify the Department of Ecology if contamination is discovered (*See Condition B-5*).

Finding 3 – Water Quality

Any discharge of sediment-laden runoff or other pollutants to water of the state is a violation of state statute. It also specifies that “erosion control measures must be in place prior to any clearing, grading or construction” on site and identifies several preventative measures to be taken to ensure such discharge does not occur.” An erosion and dust control plan is required by County Code (*See Condition A-11*). Construction activities will be monitored by inspection staff to ensure compliance with the approved plan.

The DOE letter also notes that the project may require a construction stormwater permit, also known as the National Pollution Discharge Elimination System (NPDES) and State Waste Discharge Permit for Stormwater Discharges Associated with Construction. This permit is required for projects which meet both of the following conditions

- One or more acres of soil surface area will be disturbed by construction activities; and
- The site already has offsite discharge to waters of the state or storm drains or will have offsite discharge during construction.

The applicant has been provided a copy of the DOE letter, and will be required to obtain any permits required (*See Condition G-3*).

Finding 4 – Water Resources

The proponent is responsible for inspecting the site to determine the location of all existing wells. Any unused wells must be properly decommissioned and decommission reports submitted to Ecology as described in WAC 173-160-381. This includes resource protection wells and any dewatering wells installed during the construction phase of the project.

TRANSPORTATION:

Finding 1 – Pedestrian/Bicycle Circulation Plan

Pedestrian circulation facilities in compliance with the Americans with Disabilities Act are required in accordance with the provisions of CCC 40.350.010. Per CCC 40.350.010(E)(2), the pedestrian pathway that provides access to NE 50th Avenue shall be located inside a 10-foot minimum public easement (*See Condition A-7-a*).

Finding 2 – Road Circulation

The applicant is proposing to utilize the public roadway to the south, NE 109th Street, and provide opportunity for future circulation to the west. The proposal meets the road circulation code. The project complies with the circulation plan requirements set forth in CCC 40.350.030(B)(2).

Finding 3 – Roads

NE 50th Avenue is classified as an “Urban Minor Arterial”, M-2cb. The minimum half-width improvements required include 40 feet of right-of-way, 23 feet of paved width, curb, gutter, and detached 6-foot sidewalk. It appears the applicant has proposed a 40-

foot half-width right-of-way, a 30-foot paved half-width, curb, gutter, and 6-foot detached sidewalk. The applicant has submitted a road modification application for relief from about 100 feet of required physical frontage improvements (*See Transportation Finding 4*).

The applicant proposes to extend NE 109th Street so that it provides circulation to the proposed subdivision and ultimately parcel #189769-000 to the west. The existing improvements consist of a 23-foot right-of-way, 19 feet of paved width, attached 5-foot sidewalk, curb, and gutter. A portion of the sidewalk on the south side of NE 109th Street is located inside a sidewalk easement that was previously approved per the Triangle Estates decision (PLD2004-00018). The easement ranges in width from 4.5 feet to 2.5 feet wide. The applicant has proposed to widen the roadway such that the full width improvements will consist of a 46-foot right-of-way, a 34-foot paved width, sidewalk, curb, and gutter. The sidewalk easement was utilized in lieu of public right-of-way which was allowed by code when Triangle Estates was approved. The standard detail for an "Urban Local Residential Access" has since been modified such that a sidewalk is not allowed to be located in a separate sidewalk easement. The applicant has the option to consider the sidewalk easement as having been allowed in lieu of right-of-way. Therefore, the easement can be considered in the calculation to determine the ultimate required public right-of-way for NE 109th Street. It appears the resulting existing distances of right-of-way plus easement to the south of parcel #189764-000 are 27.5 feet near the intersection with NE 50th Avenue and 25.5 feet closer to the existing temporary turnaround. As a result, the required minimum partial-width right-of-way dedication is 20.5 feet to 18.5 feet. The applicant has proposed a partial width right-of-way of 23 feet that exceeds the minimum requirement. It appears the applicant has the option to reduce the dedicated right-of-way by approximately 2.5 feet to 4.5 feet.

The plat for Triangle Estates indicates the turnaround is a temporary one and is to be relinquished with the extension of NE 109th Street. CCC 40.350.030(B)(9)(b)(2) indicates that removal of a temporary turnaround and extension of sidewalk shall be the responsibility of the developer who extends the road (*See Condition A-7-b*).

The proposed on-site roadways meet the minimum requirements for an "Urban Local Residential Access" road. The proposed improvements include 46 feet of right-of-way, 28 feet of paved road width, curbs, gutters, and sidewalks. NE 110th Circle is considered an over-length cul-de-sac that has been addressed through a submitted road modification application. The proposed improvements exceed the required roadway width for a cul-de-sac which is 26 feet (*See Transportation Finding 4*).

The applicant has proposed a temporary turnaround at the boundary line between the development site and parcel #189773-000. CCC 40.350.030(B)(9)(b)(2) indicates that removal of a temporary turnaround and extension of sidewalk shall be the responsibility of the developer who extends the road. The party responsible for removal of the temporary turnaround shall be identified on the face of the plat (*See Condition D-16-l*).

Per CCC 40.350.030 (B)(4)(b)(1)(b), corner lot driveways shall have a minimum separation of 50 feet from the intersecting property lines or where this is impractical, the driveway may be located 5 feet from the property line away from the intersection or as a joint use driveway at this property line (*See Condition A-7-c*).

The applicant is responsible for providing all necessary transportation improvements required for each individual phase including temporary turnarounds. The required transportation improvements for each proposed phase will be reviewed during final engineering review (*See Condition A-7-d*).

Finding 4 – Road Modification (EVR2009-00026)

The applicant has submitted a road modification for the purpose of reducing the northern 100 feet of frontage improvements to NE 50th Avenue's right-of-way and to allow an over length cul-de-sac.

The applicant proposes that the road modification request for reducing the frontage improvements by 100 feet can be justified per CCC 40.550.010(A)(1)(a) and CCC 40.550.010(A)(1)(d). The proposed 100-foot reduction in frontage improvements is due to extensive habitat and wetlands existing adjacent to NE 50th Avenue. There are also steep slopes and a steep 1:1 rock reinforced slope providing stability for the existing road base. A Type III wetland permit, arborist report, and monitoring would be required. The construction cost and design cost for placing a 25-foot tall wall in the habitat and wetland buffers would be very expensive. The integrity of the existing rock reinforced abutment off site would likely be compromised resulting in a complete reconstruction of NE 50th Avenue's half-width including the 125-foot slope section on the adjacent neighbor's property to the north. Potential impacts to the creek and its overall health both on-site and downstream could be detrimental.

The applicant proposes that the road modification request for an over-length cul-de-sac can be justified per CCC 40.550.010(A)(1)(a) and CCC 40.550.010(A)(1)(d). Providing a second access point for this project along NE 50th Avenue is not feasible due to intersection spacing requirements and sensitive areas on site combined with the steep slopes in the vicinity.

The examiner finds that the applicant has provided sufficient justification for the road modification requests. Overall, the examiner finds the road modification requests can be justified due to safety concerns and existing conditions. The examiner finds the proposals comply with 40.550.010(A)(1)(a) and CCC 40.550.010(A)(1)(d). Therefore, the examiner approves the two road modification requests.

Finding 5 – Sight Distance

The applicant has submitted a sight distance analysis letter dated June 19, 2009. The approval criteria for sight distances are found in CCC 40.350.030(B)(8). This section establishes minimum sight distances at intersections and driveways. Additional building setbacks may be required for corner lots in order to maintain adequate sight distance. The final engineering plans shall show sight distance triangles for all corner lots.

Landscaping, trees, utility poles, and miscellaneous structures will not be allowed to

impede required sight distance requirements at all proposed driveway approaches and intersections (*See Condition A-7-e*).

Conclusion (Transportation): The examiner concludes that the proposed preliminary plan, subject to conditions identified above, meets transportation requirements of the Clark County Code

TRANSPORTATION CONCURRENCY:

Finding 1 – Trip Generation

The applicant has submitted a traffic study under provisions of CCC 40.350.020 (D)(1). Said study indicates that the proposed Fishwood Subdivision will consist of 36 single family detached home lots. The applicant's traffic study has also estimated the weekday a.m. peak-hour trip generation at 25 new trips, while the p.m. peak-hour trip generation is estimated at 34 new trips using nationally accepted data published by the Institute of Transportation Engineers.

Finding 2 – Site Access

Traffic conditions are usually expressed using a scale that quantifies the ability of a facility to meet needs and expectations of the driver. This scale is graded from A to F and is referred to as level-of-service (LOS). A driver who experiences an LOS A condition would expect little delay. A driver who experiences an LOS E condition would expect significant delay, but the traffic facility would be just within its capacity to serve the needs of the driver. A driver who experiences an LOS F condition would expect significant delay with traffic demand exceeding the capacity of the facility with the result being growing queues of traffic.

Congestion, or concurrency, LOS standards are not applicable to site accesses or intersections that are not regionally significant; however, the LOS analysis provides information on the potential congestion and safety problems that may occur in the vicinity of the site.

The applicant's traffic study shows that the proposed development will take direct access onto NE 109th Street. Once on NE 109th Street, trips generated by the proposed development will have indirect access to NE 50th Avenue to the east. The applicant's study indicates that these intersections will have a LOS D or better in the 2012 build out horizon. The study shows that the LOS was evaluated in the a.m. and p.m. peak hour traffic conditions in existing and build-out scenarios. County the examiner concurs with the traffic study findings.

Finding 3 – Concurrency

The proposed development is required to meet standards established in CCC 41.350.020(G) for corridors and intersections of regional significance within one mile of the proposed development.

The applicant's study shows a one-mile radius study area, which includes regionally significant unsignalized and signalized intersections.

Staff has performed an evaluation of the operating levels, travel speed and delay standards represented in the County's model. The County's model consists of the study intersections and corridors of regional significance in the development area yielding operating levels, travel speed and delay standards, during the pm peak hours with a LOS better than the minimum allowable LOS E for unsignalized intersections with the exception of NE 50th Avenue/NE 119th Street.

NE 50th Avenue/NE 119th Street

The intersection of NE 50th Avenue/NE 119th Street is projected to operate at a LOS E in the 2012 Concurrency horizon and is also projected to meet signal warrants, thereby creating a Concurrency failure with the failing approaches being in the eastbound and westbound directions. The applicant's traffic study indicates there are vehicle trips assigned to the failing approaches in the NE 50th Avenue/NE 119th Street intersection.

The applicant has submitted a letter volunteering mitigation at the intersection of NE 50th Avenue/NE 119th Street [Exhibit 18]. This mitigation has been proposed to offset the impacts of Fishwood Subdivision. Concurrency staff has reviewed the proposed mitigation and concurs with the applicant's recommendation of a northbound right-turn lane at the intersection of NE 50th Avenue/NE 119th Street.

The applicant shall ensure construction of a northbound right turn pocket at the intersection of NE 50th Avenue/NE 119th Street to offset the transportation impacts of the proposed Fishwood Subdivision. The construction shall include:

- A 75-foot long, 12-foot wide northbound right-turn lane with a 50-foot long taper; and,
- Related signing and striping associated with the volunteered improvement.

These mitigations should be constructed and operational prior to occupancy of any building (See *Transportation Concurrency Conditions A-9-a, E-1 and F-1*).

Based on the findings and mitigation volunteered by the applicant, the examiner has determined that this development can comply with adopted Concurrency Standards for unsignalized intersections.

The County's model also evaluated the operating levels, travel speeds and delay times for the regionally significant signalized intersections. This analysis showed that individual movements during peak hour traffic conditions had approach delays that did not exceed the maximum 240 seconds of delay in the 2012 build-out horizon.

The County has determined that this development can comply with adopted Concurrency Standards.

The County incurs costs to analyze the proposed development's impacts; therefore, the applicant shall reimburse the County for costs incurred in running the concurrency model (See *Transportation Concurrency Condition A-9-b*).

SAFETY:

Where applicable, a traffic study shall address the following safety issues:

- traffic signal warrant analysis,
- turn lane warrant analysis,
- accident analysis, and
- any other issues associated with highway safety.

Mitigation for off-site safety deficiencies may only be a condition of approval on development in accordance with CCC 40.350.030(B)(6). The code states that “nothing in this section shall be construed to preclude denial of a proposed development where off-site road conditions are inadequate to provide a minimum level of service as specified in Section 40.350.020 or a *significant* traffic or safety hazard *would be caused or materially aggravated* by the proposed development; provided, that the applicant may voluntarily agree to mitigate such direct impacts in accordance with the provisions of RCW 82.02.020.”

Finding 4 – Traffic Signal Warrants

The applicant’s traffic study has determined the unsignalized intersections that are not tested for concurrency are anticipated to operate at acceptable levels in the build-out year. The County concurs with the applicant’s findings. Because these unsignalized intersections will operate at an acceptable level, a signal warrant analysis is not necessary. Therefore, no further analysis is required.

Finding 5 – Turn Lane Warrants

Turn lane warrants are evaluated at unsignalized intersections to determine if a separate left or right turn lane is needed on the uncontrolled roadway. The applicant’s traffic study reviewed the site access for turn lane warrants and found that, with the low traffic volumes, turn lanes would not be warranted at the studied intersection. County staff agrees with the traffic study findings.

Finding 6 – Historical Accident Situation

The applicant’s traffic study analyzed the accident history within the vicinity of the site. The intersection accident rates do not exceed thresholds that would warrant additional analysis. Therefore, further analysis *is not* required.

Conclusion (Transportation Concurrency): The examiner finds that the proposed preliminary plan, subject to conditions, meets transportation concurrency requirements of the Clark County Code.

STORMWATER:

Finding 1 – Applicability

The Stormwater and Erosion Control Ordinance (CCC 40.380) applies to development activities that result in 2,000 square feet or more of new impervious area within the urban

area; the platting of single-family residential subdivisions in an urban area; and all land disturbing activities not exempted in section 40.380.030.

The project will create more than 2,000 square feet of new impervious surface, involves platting of a single-family residential subdivision, and is a land disturbing activity not exempted in section 40.380.030. Therefore, this development shall comply with the Stormwater and Erosion Control Ordinance (CCC 40.380).

The erosion control ordinance is intended to minimize the potential for erosion and a plan is required for all projects meeting the applicability criteria listed in CCC 40.380.050. This project is subject to the erosion control ordinance.

Finding 2 – Stormwater Proposal

The applicant proposes to utilize StormFilter systems (Contech Stormwater Solutions) for the purpose of stormwater treatment. Infiltration systems consisting of perforated pipe and drywells have been proposed for the purpose of stormwater quantity control. Infiltration is proposed within the public right-of-way of NE 110th Circle and NE 50th Avenue. Individual roof downspout infiltration systems will be utilized to infiltrate roof areas. The applicant has indicated a contingency plan for the purpose of possible facility failure includes the assessment that stormwater will flow to the north to existing habitat and wetland. The stormwater facilities will be publicly owned and maintained. The applicant has submitted a Type II stormwater variance [*Exhibit 13*] to allow the facilities to be situated in the right-of-way (*See Stormwater Finding 3 below*).

Infiltration rates were found to be 18 inches per hour and other rates measured up to 78 inches per hour. During construction, the infiltration rates shall be verified in the field and corresponding laboratory testing shall also be performed (*See Condition C-4*).

Per CCC 40.380.040(C)(1)(g), the project shall not materially increase or concentrate stormwater runoff onto an adjacent property or block existing drainage from adjacent lots. The base of the infiltration facilities shall be at a minimum of three feet above the seasonal high groundwater or an impermeable soil layer per CCC 40.380.040(C)(3)(c) (*See Condition A-10-a*).

The preliminary stormwater report identifies a 100-year/24-hour storm precipitation depth as being 4.0 inches. The 10-year/24-hour storm event precipitation depth is 3.0 inches. In addition, the 2-year/24-hour storm event precipitation depth is identified as being 2.0 inches.

Finding 3 – Stormwater Variance (EVR2009-00037)

The applicant indicates that by spreading infiltration over a larger area there will be an increase in the system's performance. The infiltration system will not interfere with any other utilities under the road. The applicant indicates that, by placing this system in the right-of-way, this system is 100% internal to the development and does not create any conflicts with future development or utilities. A correction factor of 4 was applied to the more conservative rate of 18 inches per hour and 4.5 inches was used for the design.

The examiner finds that the applicant has sufficiently accounted for any issues that may arise from placement of the stormwater facilities within a public right-of-way internal to the site. However, it appears an infiltration facility is also proposed to be located within the existing frontage road, NE 50th Avenue, which is an "Urban Minor Arterial". The examiner does **not** support the proposal to locate a stormwater infiltration facility within the right-of-way of NE 50th Avenue unless approved by the Public Work's Director. If approved, the proposal shall comply with the Geologic Hazard Area Ordinance, CCC 40.430 (*See Condition A-10-b*). The examiner finds that it is feasible to infiltrate all stormwater runoff from this development within the site. Infiltration within the NE 50th Avenue right of way is not necessary.

The examiner approves the stormwater variance subject to the associated condition.

Finding 4 – Phasing

Each individual proposed phase shall be designed with sufficient stormwater management facilities and comply with CCC 40.380. The required stormwater improvements for each proposed phase will be reviewed by the final engineer (*See Condition A-10-c*).

Conclusion (Stormwater): The examiner concludes that the proposed preliminary stormwater plan, subject to the conditions identified above, is feasible. Therefore, the requirements of the preliminary plan review criteria are satisfied.

FIRE PROTECTION:

Finding 1 – Fire Marshal Review

This application was reviewed by Tom Scott in the Fire Marshal's Office. Tom can be reached at (360) 397-2375 ext. 4095 or 3323. Information can be faxed to Tom at (360) 759-6063. Where there are difficulties in meeting these conditions or if additional information is required, contact Tom in the Fire Marshal's office immediately.

Finding 2 – Building Construction

Building construction occurring subsequent to this application shall be in accordance with the provisions of the county's building and fire codes. Additional specific requirements may be made at the time of building construction as a result of the permit review and approval process (*See Condition E-2*).

Finding 3 – Fire Flow

Fire flow in the amount of 1,000 gallons per minute supplied at 20 psi for 60 minutes duration is required for this application. Information from the water purveyor indicates that the required fire flow is available at the site and is estimated to exceed 1,000 gpm.

Finding 4 – Fire Hydrants

Fire hydrants are required for this application. The indicated number and spacing of new and existing fire hydrants are adequate. The local fire district chief, however, approves the exact location of fire hydrants. The applicant shall contact Vancouver Fire Department at (360) 759-4418 to arrange for approval of hydrant location (*See Condition A-12-a*).

Fire hydrants shall be provided with appropriate 'storz' adapters for the pumper connection (*See Condition A-12-b*). In addition, the applicant shall provide and maintain a three-foot clear space around the circumference of all fire hydrants (*See Condition A-12-c*).

Finding 5 – Fire Apparatus Access

Fire apparatus access is required for this application. The roadways and maneuvering areas as indicated in the application adequately provide required fire apparatus access, and meet requirements of the Clark County Road Standard. The applicant shall ensure that fire apparatus access roads maintain an unobstructed vertical clearance of not less than 13.5 feet with an all weather driving surface and capable of supporting the imposed loads of fire apparatus (*See Condition A-12-d*).

Finding 6 – Fire Apparatus Turnarounds

Fire apparatus turnarounds are required and, as shown, meet requirements of the Road Standards.

Conclusion (Fire Protection): The examiner finds that the proposed preliminary plan, subject to conditions identified above, meets the fire protection requirements of the Clark County Code.

UTILITIES

Finding 1 – Water and Sewer

Lots resulting from the proposed subdivision are required to connect to public water and sewer. The site will be served Clark Public Utilities for water while Clark Regional Wastewater District will provide sanitary sewer service. The applicant has submitted a current utility review from these agencies confirming that services are available to the site.

Prior to final plat approval, the applicant shall provide documentation from the utilities indicated that water and sewer connections have been installed and approved (*See Condition D-11 and D-12*).

Finding 2 – Health Department

Submittal of a “Health Department Evaluation Letter” is required as part of the Final Construction Plan Review application. If the Evaluation Letter specifies that an acceptable “Health Department Final Approval Letter” must be submitted, the Evaluation Letter will specify the timing of when the Final Approval Letter must be submitted to the county (e.g., at Final Construction Plan Review, Final Plat Review or prior to occupancy). The Health Department Evaluation Letter serves as confirmation that the Health Department conducted an evaluation of the site to determine if existing wells or septic systems are on the site, and whether any structures on the site have been/are hooked up to water and/or sewer. The Health Department Final Approval Letter will confirm that all existing wells and/or septic systems have been abandoned, inspected and approved by the Health Department (*See Condition A-13*).

Conclusion (Utilities): The examiner finds that the proposed preliminary plan, subject to conditions identified above, meets the water and sewer service requirements of the Clark County Code.

IMPACT FEES:

Finding 1 – Existing Dwelling

As previously noted, there is an existing dwelling on the development site. Therefore, impact fees will be waived for one (1) lot within the subdivision. Said lot shall be identified on the final plat (*See Condition D-14-c*).

Finding 2 – Fees

The additional residential lots created by this plat will produce impacts on schools, parks, and traffic, and are subject to School (SIF), Park (PIF), and Traffic (TIF) Impact Fees in accordance with CCC 40.610.

The site is located within:

- Battle Ground School District with a SIF of \$8,290.00 per dwelling;
- Park District #8 with a PIF of \$1,800.00 per dwelling (\$1,360.00 for acquisition and \$440.00 for development);
- Hazel Dell sub-area with a TIF of \$3,668.66 per dwelling (\$1,724.27 – local and \$1,944.39 – regional).

Impact fees shall be paid prior to issuance of building permits for each new lot (*See Conditions D-14-c and E-3*). If a building permit application is made more than three years following the date of preliminary plat approval, the impact fees will be recalculated according to the then-current ordinance rate.

D. CONCLUSION

Based on the above findings and discussion, the examiner concludes that PLD2009-00032, SEP2009-00056, WET2009-00046, EVR2009-00026, FOR2009-00014, GEO2009-00013 and HAB2009-00046 (Fishwood Subdivision) should be approved, because it does or can comply with the applicable standards of the Clark County Code and the Revised Code of the State of Washington, subject to conditions of approval necessary to ensure the final plat and resulting development will comply with the Code.

E. DECISION

Based on the foregoing findings and except as conditioned below, the examiner hereby approves PLD2009-00032, SEP2009-00056, WET2009-00046, EVR2009-00026, FOR2009-00014, GEO2009-00013 and HAB2009-00046 (Fishwood Subdivision) in

general conformance with the applicant's revised preliminary plat (Exhibit 14 and the related plans, reports and proposal (Exhibits 6, 13 and 16). The approval is granted subject to the requirements that the applicant, owner or subsequent developer (the "developer") shall comply with all applicable code provisions, laws and standards and the following conditions. These conditions shall be interpreted and implemented consistently with the foregoing findings.

Conditions of Approval

A Final Construction Plan Review for Land Division Review & Approval Authority: Development Engineering

Prior to construction, a Final Construction shall be submitted for review and approval, consistent with the approved preliminary plan and the following conditions of approval:

- A-1** Phasing: Phase I shall be constructed prior to either Phase II or Phase III. *(See Land use Finding 2)*
- A-2** **Final Construction Plan** - The applicant shall submit and obtain County approval of a final construction plan in conformance to CCC 40.350 and the following conditions of approval:
- a.** Archaeology - A note shall be placed on the face of the final site plan and construction plans as follows:
"If any cultural resources and/or human remains are discovered in the course of undertaking the development activity, the Department of Archaeology and Historic Preservation in Olympia and Clark County Community Development shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines." *(See Archaeology Finding 1)*
- A-3** **Landscaping in Right-of-Way** - The applicant shall submit and obtain county approval of a final landscape plan within the public right-of- way which is consistent with the approved preliminary landscape plan and conditions listed below:
- a.** The applicant shall contact Karyn Morrison in Clark County Public Works at (360) 397-2445, ext. 1658 to arrange for approval of species to be planted within the public right-of-way for NE 50th Avenue. *(See Land Use Finding 7)*
- A-4** **Habitat**:
- a.** Prior to construction, tree protection fencing shall be installed at the dripline of protected trees. *(See Habitat Findings)*

- b. All tree protection fencing shall be shown on the face of the Engineering Construction Plans set. *(See Habitat Findings)*
- c. A note shall be placed on the Engineering Plans set stating "no grading (cuts or fills) within the dripline of protected trees shall take place without a report from a certified arborist ensuring future tree survival." *(See Habitat Findings)*

A-5 Wetlands:

- a. The final construction plans shall show the wetland boundaries, correct wetland buffers, wetland buffer reduction and replacement areas. *(See Wetland Finding 2)*
- b. Final Wetland Permit approval shall be required only if Condition A-5(a) above is not met. *(See Wetland Finding 3)*

A-6 Geologic Hazard Area - The applicant shall submit and obtain County approval of a final geotechnical engineering plan designed in accordance with CCC 40.430 and the following conditions of approval:

- a. Recommendations identified in the preliminary geotechnical report *[Exhibit I, Tab H]* shall be implemented unless further studies present new or different facts. Geotechnical engineering analysis shall include an analysis of the infiltration of roof runoff from the proposed lots adjacent to the steep slopes and provide associated recommendations. *(See Geo-Hazard Finding 2)*
- b. A building permit is required for retaining walls greater than 4 feet tall or when groundwater is surcharged adjacent to the wall. All retaining walls shall be shown in sufficient detail on the engineering plans for staff to assess their impact on adjacent roads, structures, and public and private utilities. *(See Geo-Hazard Finding 2)*

A-7 Final Transportation Plan/On-Site - The applicant shall submit and obtain County approval of a final transportation design in conformance to CCC 40.350 and the following conditions of approval:

- a. Per CCC 40.350.010 (E)(2), the pedestrian pathway, that provides access to NE 50th Avenue, shall be located inside a 10-foot minimum public easement. *(See Transportation Finding 1)*
- b. Per CCC 40.350.030(B)(9)(b)(2), the applicant shall remove the temporary turnaround within Triangle Estates and extend the sidewalk on the south side of NE 109th Street so that it connects with the proposed sidewalk associated with Fishwood Subdivision. *(See Transportation Finding 3)*

- c. Per CCC 40.350.030 (B)(4)(b)(1)(b), corner lot driveways shall be separated a minimum of 50 feet from the intersecting property lines or where this is impractical, the driveway may be located 5 feet from the property line away from the intersection or as a joint use driveway at this property line. *(See Transportation Finding 3)*
- d. The applicant is responsible for providing all necessary transportation improvements required for each individual phase including temporary turnarounds. *(See Transportation Finding 3)*
- e. The applicant shall comply with the sight distance standards in CCC 40.350.030(B)(8). The final engineering plans shall show sight distance triangles for all corner lots. Landscaping, trees, utility poles, and miscellaneous structures will not be allowed to impede required sight distance requirements at all proposed driveway approaches and intersections. *(See Transportation Finding 5).*

A-8 Transportation:

- a. Signing and Striping Plan: The applicant shall submit a signing and striping plan and a reimbursable work order, authorizing County Road Operations to perform any signing and pavement striping required within the County right-of-way. This plan and work order shall be approved by the Department of Public Works prior to final plat or final site plan approval.
- b. Traffic Control Plan: Prior to issuance of any building or grading permits for the development site, the applicant shall obtain written approval from Clark County Department of Public Works of the applicant's Traffic Control Plan (TCP). The TCP shall govern all work within or impacting the public transportation system.

A-9 Final Transportation Plan/Off Site (Concurrency) - The applicant shall submit and obtain County approval of a final transportation design in conformance to CCC 40.350 and the following conditions of approval:

- a. The applicant shall submit a signing and striping design for review and approval to the Public Works Transportation Division. This design shall show signing and striping and all related features for required frontage and offsite road improvements. The offsite road improvements may include signing and striping for the intersection of NE 119th Street/NE 50th Avenue. The applicant shall obtain a Work Order with Clark County to reimburse the County for the signing and striping changes needed along the frontage of this development and any offsite road improvements. *(See Transportation Concurrency Finding 3)*
- b. The applicant shall reimburse the County for the cost of concurrency modeling incurred in determining the impact of the proposed development,

in an amount not to exceed \$2,000. *(See Transportation Concurrency Finding 3)*

A-10 Final Stormwater Plan - The applicant shall submit and obtain County approval of a final stormwater plan for on and off-site facilities (as applicable), designed in conformance to CCC 40.380 and the following conditions of approval:

- a. Per CCC 40.380.040(C)(1)(g), the project shall not materially increase or concentrate stormwater runoff onto an adjacent property or block existing drainage from adjacent lots. The base of the infiltration facilities shall be at a minimum of three feet above the seasonal high water or an impermeable soil layer per CCC 40.380.040(C)(3)(c). *(See Stormwater Finding 2)*
- b. The applicant shall not locate a stormwater infiltration system within the right-of-way of NE 50th Avenue unless approved by the Public Work's Director. If approved, the proposal shall comply with the Geologic Hazard Area Ordinance, CCC 40.430. *(See Stormwater Finding 3)*
- c. Each individual proposed phase shall be designed with sufficient stormwater management facilities and comply with CCC 40.380. *(See Stormwater Finding 4)*

A-11 Erosion Control Plan - The applicant shall submit and obtain County approval of a final erosion control plan designed in accordance with CCC 40.380.

A-12 Fire Marshal Requirements:

- a. The applicant shall contact Vancouver Fire Department at (360) 759-4418 to arrange for approval of hydrant location. *(See Fire Protection Finding 4)*
- b. Fire hydrants shall be provided with appropriate 'storz' adapters for the pumper connection. *(See Fire Protection Finding 4)*
- c. The applicant shall provide and maintain a three-foot clear space around the circumference of all fire hydrants. *(See Fire Protection Finding 4)*
- d. The applicant shall ensure that fire apparatus access roads maintain an unobstructed vertical clearance of not less than 13.5 feet with an all weather driving surface and capable of supporting the imposed loads of fire apparatus. *(See Fire Protection Finding 5)*

A-13 Health Department Review - Submittal of a "Health Department Project Evaluation Letter" is required as part of the Final Construction Plan Review or early grading application. If the Evaluation Letter specifies that certain actions are required, the Evaluation Letter will specify the timing of when those activities must be completed (e.g., prior to Final Construction Plan Review, construction, Provisional Acceptance, Final Plat Review, building permit issuance, or occupancy), and approved by the Health Department. *(See Utilities Finding 2)*

A-14 Excavation and Grading - Excavation/grading shall be performed in compliance with CCC Chapter 14.07.

B	Prior to Construction of Development Review & Approval Authority: Development Inspection
----------	---

Prior to construction, the following conditions shall be met:

- B-1 Pre-Construction Conference** - Prior to construction or issuance of any grading or building permits, a pre-construction conference shall be held with the County.
- B-2 Erosion Control** - Prior to construction, erosion/sediment controls shall be in place. Sediment control facilities shall be installed that will prevent any silt from entering infiltration systems. Sediment controls shall be in place during construction and until all disturbed areas are stabilized and any erosion potential no longer exists.
- B-3 Erosion Control** - Erosion control facilities shall not be removed without County approval.
- B-4 Demolition Permits** - Prior to demolition and/or removal of structures on the site, the applicant shall obtain demolition permits from the Clark County Building Division. (*See Land Use Finding 5*)
- B-5 Contamination** - If during the course of construction activities on the site contamination is discovered, it shall be reported to the Washington Department of Ecology. Contact the Environmental Report Tracking System Coordinator at the Southwest Regional Office at (360) 407-6300 for more information. (*See Department of Ecology Finding 2*)

C	Provisional Acceptance of Development Review & Approval Authority: Development Inspection
----------	--

Prior to provisional acceptance of development improvements, construction shall be completed consistent with the approved final construction/land division plan and the following conditions of approval:

- C-1 Verification of Landscaping in Right-of-way Installation** - The applicant shall provide verification in accordance with CCC 40.320.030(B) that landscaping in the right-of-way of NE 50th Avenue has been installed in accordance with the approved landscape plan.
- C-2 Wetlands and Buffers** - Permanent physical demarcation of the boundaries in a manner approved by the Development Services Manager (i.e. fencing, hedgerows, berms etc.) and posting of approved signage on each lot or every 100 feet of the boundary, whichever is less.

- C-3 Geo-Hazard** - During construction, the geotechnical engineer shall certify that work performed is consistent with his recommendations and certify that there are no safety concerns. *(See Geologic Hazard Finding 2)*
- C-4 Stormwater** - The installation of infiltration systems shall be observed and documented by a licensed engineer in the State of Washington proficient in geotechnical engineering. During the construction, the geotechnical engineer shall verify that the infiltration rates used in the final stormwater analysis are obtained at the exact locations and depths of the proposed stormwater infiltration facilities. The infiltration investigation shall include laboratory analysis based on AASHTO Specification M145. The timing of representative infiltration tests will be determined at the pre-construction conference. *(See Stormwater Finding 2)*

D	Final Plat Review & Recording Review & Approval Authority: Development Engineering
----------	---

Prior to final plat approval and recording, the following conditions shall be met:

- D-1** In accordance with CCC 40.220.010(C)(7), a recorded covenant shall be placed on those areas or tracts from which density is transferred prohibiting any development of the parcel or tract inconsistent with its intended use. Said covenant shall be recorded with Phase 1. *(See Land Use Finding 1)*
- D-2** The final plat shall be revised to show access and utility easements included as part of the Lots 10, 11, 12, 16, 33, 34 and 35. The square footage of these lots shall be adjusted accordingly. *(See Land Use Finding 3)*
- D-3** The final plat shall identify which specific lots will derive access from each joint driveway easement. *(See Land Use Finding 3)*
- D-4** Phasing: Phase I shall be constructed prior to either Phase II or Phase III. *(See Land use Finding 3)*
- D-5** The 10-foot utility easement on Lot 17 adjacent to and south of a dripline for a tree located in the habitat tract and the 500 square foot stormwater tract at the southwest corner of Lot shall be identified on the final plat. *(See Land Use Finding 4)*
- D-6** Building Envelopes: Building envelopes on corner lots shall be modified to correctly reflect how setbacks at intersections are measured. *(See Land Use Finding 4)* Contact Permit Services for more information and/or assistance.
- D-7** Building Envelopes: Building envelopes shown on the final plat shall clearly identify distances to all property lines. *(See Land Use Finding 4)*
- D-8** The existing residence shall be removed before recordation of the final plat for Phase III. *(See Land use Finding 5)*

D-9 Habitat:

- a. The applicant shall implement the "Habitat Study and Mitigation Plan" prepared by Cascadia Ecological Services, Inc. and dated June 26, 2009 [Exhibit 6, Tab V], except as amended herein. (See *Habitat Findings and SEPA Finding 1*)
- b. All habitat areas and building/clearing envelopes shall be clearly shown on the face of the Final Plat. (See *Habitat Findings*)
- c. The applicant shall place habitat signage along the habitat boundary at 100-foot intervals or one per lot, whichever is less. Habitat signage shall read "habitat conservation area – please leave in a natural state." (See *Habitat Findings*)
- d. The applicant shall enter all remaining habitat areas into a Habitat Conservation Covenant. (See *Habitat Findings and SEPA Finding 1*)

D-10 Wetlands:

- a. The wetland and buffer boundaries shall be delineated on the face of the final plat. (See *Wetlands Finding 2*)
- b. Recording a conservation covenant with the County Auditor that runs with the land and requires that the wetlands and buffers remain in natural state.

D-11 The applicant shall provide documentation from Clark Public Utilities that water connections to the new lots have been installed and approved. (See *Utilities Finding 1*)

D-12 The applicant shall provide documentation from Clark Regional Wastewater District that public sewer connections to the new lots have been installed and approved. (See *Utilities Finding 1*)

D-13 Abandonment of On-Site Water Wells and Sewage Systems - The location of abandoned septic tanks and decommissioned wells shall be shown on the face of the final plat.

D-14 Developer Covenant - A "Developer Covenant to Clark County" shall be submitted for recording to include the following:

- a. Critical Aquifer Recharge Areas: "The dumping of chemicals into the groundwater and the use of excessive fertilizers and pesticides shall be avoided. Homeowners are encouraged to contact the State Wellhead Protection program at (206) 586-9041 or the Washington State Department

of Ecology at 800-RECYCLE for more information on groundwater /drinking supply protection."

- b. Erosion Control - "Building Permits for lots on the plat shall comply with the approved erosion control plan on file with Clark County Building Department and put in place prior to construction."
- c. Impact Fees: "In accordance with CCC 40.610, except for one (1) lot designated on the final plat as waived, the School, Park and Traffic Impact Fees for each dwelling in this subdivision are: \$8,290.00 (Battle Ground School District); \$1,800.00 (\$1,360.00 for acquisition and \$440.00 for development for Park District #8); and \$3,668.66, (\$1,724.27 – local and \$1,944.39 – regional in Hazel Dell TIF subarea) respectively. The impact fees for lots on this plat shall be fixed for a period of three years, beginning from the date of preliminary plat approval, dated [REDACTED], and expiring on [REDACTED]. Impact fees for permits applied for following said expiration date shall be recalculated using the then-current regulations and fees schedule."

D-15 Addressing - At the time of final plat, existing residence(s) that will remain may be subject to an address change. Addressing will be determined based on point of access.

D-16 Plat Notes - The following notes shall be placed on the final plat:

- a. Lot Coverage: Maximum lot coverage for all structures on individual lots is fifty percent (50%). *(See Land Use Finding 4)*
- b. Mobile Homes: "Mobile homes not permitted on any lots within this development subject to the requirements of CCC 40.260.130." *(See Land Use Finding 6)*
- c. Archaeological Note 1: "If any cultural resources and/or human remains are discovered in the course of undertaking the development activity, the Department of Archaeology and Historic Preservation in Olympia and Clark County Community Development shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines." *(See Archaeology Finding 1)*
- d. Archaeological Note 2: If any development activity or ground disturbance occurs outside the boundaries of the lots represented on the final plat, additional archaeological study will be required for the area impacted. *(See Archaeology Finding 1)*
- e. Habitat: The applicant shall place a note on the plat stating "no unauthorized clearing or development activities shall occur within the Habitat Conservation Tract." *(See Habitat Findings and SEPA Finding 1)*

- f. Wetlands: "Clark County Wetland Protection Ordinance (Clark County Code Chapter 40.450) requires wetlands and wetland buffers to be maintained in a natural state. Refer to the Conservation Covenant recorded in conjunction with this plat for limitations on the maintenance and use of the wetland and wetland buffer areas identified on the face of this plat."
- g. Sidewalks: "Prior to issuance of occupancy permits, sidewalks shall be constructed along all the respective lot frontages".
- h. Utilities: "An easement is hereby reserved under and upon the exterior six (6) feet at the front boundary lines of all lots for the installation, construction, renewing, operating and maintaining electric, telephone, TV, cable, water and sanitary sewer services. Also, a sidewalk easement, as necessary to comply with ADA slope requirements, shall be reserved upon the exterior six (6) feet along the front boundary lines of all lots adjacent to public streets."
- i. Driveways: "No direct access is allowed onto the following streets: NE 50th Avenue."
- j. Driveways: "All residential driveway approaches entering public roads are required to comply with CCC 40.350."
- k. Privately Owned Stormwater Facilities: "The following party(s) is responsible for long-term maintenance of the privately owned stormwater facilities: _____."
- l. Temporary Turnaround: "The following party(s) is responsible for removal of the onsite temporary turnaround and construction of sidewalk in this location: _____."

E	Building Permits Review & Approval Authority: Customer Service
----------	---

Prior to issuance of a building permit, the following conditions shall be met:

- E-1 Transportation (Concurrency)** - The applicant shall ensure that the construction drawings for the construction of a northbound right-turn pocket at the intersection of NE 50th Avenue/NE 119th Street, are submitted for review and approval. The construction drawings shall include a 75-foot long, 12-foot wide northbound right-turn lane with a 50-foot long taper and related signing and striping associated with the volunteered improvement. *(See Transportation Concurrency Finding 3)*
- E-2 Fire Marshal:** Building construction occurring subsequent to this application shall be in accordance with the provisions of the county's building and fire codes.

Additional specific requirements may be made at the time of building construction as a result of the permit review and approval process. *(See Fire Protection Finding 2)*

E-3 Impact Fees - The applicant shall pay impact fees based on the number of dwelling units in the building, as follows:

- a. \$8,290.00 per dwelling for School Impact Fees (Battle Ground School District);
- b. \$1,800.00 per dwelling for Park Impact Fees (\$1,360.00 for acquisition and \$440.00 for development – Park District #8);
- c. \$3,668.66 per dwelling for Traffic Impact Fees (\$1,724.27 – local and \$1,944.39 – regional in Hazel Dell sub-area);

If the building permit application is made more than three years following the date of preliminary land division plan approval, the impact fees shall be recalculated according to the then-current rate. *(See Impact Fees Finding 2)*

F	Occupancy Permits Review & Approval Authority: Building
----------	--

Prior to issuance of an occupancy permit, the following conditions shall be met:

F-1 Transportation (Concurrency) - The applicant shall ensure the construction of a northbound right-turn pocket at the intersection of NE 50th Avenue/NE 119th Street is completed and operational prior to occupancy. This construction shall include a 75-foot long, 12-foot wide northbound right-turn lane with a 50-foot long taper and related signing and striping associated with the volunteered improvement, or, other mitigations approved by the County. All work shall be performed unless modified by the Public Works Director. *(See Transportation Concurrency Finding 3)*

G	Development Review Timelines & Advisory Information Review & Approval Authority: None - Advisory to Applicant
----------	--

G-1 Forestry - No timber harvesting shall occur until a Class IVG Forest Practice Permit is issued. *(See Forestry Finding 1)*

G-2 Land Division - Within 5 years of preliminary plan approval, a Fully Complete application for Final Plat review shall be submitted.

G-3 Department of Ecology Permit for Construction Stormwater - A permit from the Department of Ecology (DOE) is required If:

- The construction project disturbs one or more acres of land through clearing, grading, excavating, or stockpiling of fill material; **AND**

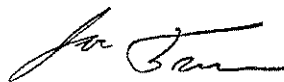
- There is a possibility that stormwater could run off the development site during construction and into surface waters or conveyance systems leading to surface waters of the state.

The cumulative acreage of the entire project whether in a single or in a multiphase project will count toward the one acre threshold. This applies even if the applicant is responsible for only a small portion [less than one acre] of the larger project planned over time. **The applicant shall Contact the DOE for further information.**

H	Post Development Requirements Review & Approval Authority: As specified below
----------	--

H-1 None

DATED this 26th day of October 2009.



Joe Turner, AICP, Hearings Examiner



HEARING EXAMINER EXHIBITS

APPLICATION: FISHWOOD SUBDIVISION

**CASE NUMBERS: PLD2009-00032; SEP2009-00056; WET2009-00046,
EVR2009-00026; FOR2009-00014; GEO2009-00013; HAB2009-00046**

Hearing Date: October 8, 2009

EXHIBIT NO.	DATE	SUBMITTED BY	DESCRIPTION
1		CC Development Services	Aerial Map
2		CC Development Services	Vicinity Map
3		CC Development Services	Zoning Map
4		CC Development Services	Comprehensive Plan Map
5	6/29/09	Applicant, Sturtevant, Golemo & Associates	Preliminary Plats, Existing Conditions Plan, Preliminary Street, Stormwater and Erosion Control Plan, Preliminary Landscaping, Habitat & Wetland Plan, Preliminary Logging Site Plan
6	6/29/09	Applicant, Sturtevant, Golemo & Associates	Application & Subdivision Submittal Checklist A Pre-Application Conference Report B Developer's GIS Packet C Narrative D Legal Lot Information E Prelim. Plats Abutting the Site F Preliminary Boundary Survey G Geotechnical Report H Preliminary Stormwater Report I Engineer's Statement J Traffic Study K Site Distance Certification L Circulation Plan M SEPA N Utility Reviews O Health Department Review P Covenants and Restrictions Q Archaeological Pre-determination R Archaeological Survey Report S Habitat Pre-determination T Habitat Clearing Permit U Habitat Study and Mitigation Plan V Wetland Pre-determination W Wetland Permit- Type I X Wetland Delineation and Assessment Report Y School Letter Z Forest Practice Permit- Type IVG AA Road Modification BB Reduced Plans CC Preliminary Plans Attached

EXHIBIT NO.	DATE	SUBMITTED BY	DESCRIPTION
7	7/27/09	CC Development Services	Fully Complete Determination
8	8/17/09	CC Development Services	Affidavit of Mailing Public Notice
9	8/17/09	CC Development Services	Notice of Type III Development Review Application, Optional SEPA Determination of Non-Significance & Public Hearing
10	8/20/09	Applicant, Sturtevant, Golemo & Associates	DAHP Cultural Resources Survey Review Letter
11	9/1/09	Department of Ecology	SEPA Comment
12	9/3/09	CC Development Services	Early Issues Email to Applicant
13	9/9/09	Applicant, Sturtevant, Golemo & Associates	Stormwater Variance to Allow Infiltration System in Public Right-of-way
14	9/9/09	Applicant, Sturtevant, Golemo & Associates	Affidavit of Posting Land Use Sign
15	9/9/09	Kelly S. Keeney	Public Comment Email
16	9/11/09	CC Development Services	Notice of Public Hearing
17	9/14/09	CC Development Engineering	Road Modification and Recommendation
18	9/15/09	Applicant, Sturtevant, Golemo & Associates	Voluntary Mitigation Letter for Concurrency
19	8/3/2009	CC Development Services	Wetland Determination (WET2009-00046)
20	9/23/09	CC Development Services	Affidavit of Posting Public Notice
21	9/23/09	CC Development Services – Vicki Kirsher, the Project Planner	Type III Development & Environmental Review, Staff Report & Recommendation
22	10/6/09	CC Development Services – Vicki Kirsher, the Project Planner	Memo to Hearings Examiner Correcting Typographical Error to Condition A-4-b

Copies of these exhibits can be viewed at:

Department of Community Development / Planning Division
1300 Franklin Street
Vancouver, WA 98666-9810